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## Introductory Remarks

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## Introductory Remarks

West-Northwest Symposium  
on the San Francisco Bay /  
Sacramento-San Joaquin Delta

*by Dr John E. McCosker*

I am honored to be allowed to make introductory remarks at this gathering of environmental lawyers. As a biologist, more precisely, a student of elasmobranchs, I am a fish out of water amongst you. I intend to learn a lot today, and hopefully through this marriage of law and science we might share our perceptions of ecosystem behavior and societal behavior such that our conversations will assist in our own precarious survival.

First, allow me these observations. From my vantage point, it seems that the purpose of law is to prove and explain, using available evidence and the occurrence of past events, the benefit of which allow me to predict future events by learning from those of the past. The purpose of science is the search for truths, to make sense out of non-sense. Observations are made and hypotheses are prepared in order that others can attempt to falsify them in order to improve, modify, or discard them. Although our goals may be identical, this difference in process, to prove or to disprove, leads us down different paths which can lead to different results. In the words of 18th century Harvard biologist Louis Agassiz, I was taught to "learn from Nature, not from books." You, as practitioners of jurisprudence, are taught from books which are immersed in human history, with the assumption and expectation that precedent is an appropriate guide for future conduct. It appears to me that the purpose of law is to identify the most appropriate decision, and when that is not possible, to optimally resolve competing needs.

And competing needs are at the heart of the San Francisco Bay and the San Joaquin Delta. The Bay, the Sacramento and the San Joaquin rivers are a complex ecosystem that provides a vital nursery for marine and freshwater life, as well as the terrestrial plants and animals that depend on it for the energy and nutrients that it transports from the rivers to the sea and in the opposite direction. It was once the largest wetland habitat in the western United States and still collects half of the state's annual runoff. Enter mankind. The Bay/Delta now provides 60% of the freshwater used in California's urban centers and is the source of irrigation water for nearly half of the nation's supply of fruits and vegetables.

The combination of six years of drought, a vast agricultural industry, and an increasing population have placed heavy demands on California water. As a result, the gradual depletion of freshwater from the estuary has salinized the Bay/Delta and seriously damaged the entire ecosystem. Fish that pass through and live in the Bay/Delta, including the Winter-run Chinook salmon and the Delta smelt, have been listed as endangered and/or threatened, and many others are probably deserving of that status. And it is safe to assume that the problem will only get worse.

This symposium was conceived in order to examine the competing interests that fuel the debate over Bay/Delta

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water allocation. On one level, the demands of wildlife, environmental concerns, the fishing industry, urban centers, and agricultural regions are competing for the scarce resource. On a separate, but closely related plane, the State of California and the federal government are in combat over control of the State's water supply. We are indeed fortunate to have with us today representatives from each of the various groups which play such vital roles in this ongoing discussion. Today's speakers and panels will address three issues central to the Bay/Delta water debate: 1) the conflict between rights to water use and water quality; 2) the CVPIA regulations, especially in light of the recent federal/state accord; and 3) the interests of the various species of wildlife, indigenous and introduced, which are in competition for water but have little voice in the debate.